

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Kenneth Edward Barbour,) C/A No. 9:11-1302-TMC
a.k.a. Kenneth Barbour,)
)
Plaintiff,) **ORDER**
)
v.)
)
12th President of the United States,)
)
Defendant.

Plaintiff, a pro se prisoner, filed this action pursuant to 42 U.S.C. § 1983. Plaintiff also filed a Motion for Leave to Proceed in forma pauperis. (Dkt. # 2). Plaintiff is subject to the three-strikes rule of the Prison Litigation Reform Act (“PLRA”) and he does not allege he is under any imminent danger of serious physical injury within the meaning of 28 U.S.C. § 1915 (g).

This matter is before the Court after the issuance of a Report and Recommendation (“R&R”) of United States Magistrate Judge Bristow Marchant filed June 8, 2011. (Dkt. # 8).¹ In the R&R, the Magistrate Judge recommends that the Court deny Plaintiff’s Motion for Leave to Proceed in forma pauperis and that the Complaint be summarily dismissed without prejudice for failure to pay the filing fee at the time of the filing the Complaint. The Magistrate Judge provided Plaintiff a notice setting forth the deadline for filing objections and the consequences for failing to submit timely objections. (Dkt. # 8 at 5). On June 23,

¹In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to a United States Magistrate Judge for pretrial handling.

2011, Plaintiff filed objections to the R&R. (Dkt. # 10).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted). This court need not conduct a de novo review when a party “makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982).

In light of these standards, the Court has reviewed, de novo, the R&R and the objections. The Plaintiff's objections are rambling and incoherent and do not contain any specific objection to the R&R. After a thorough review of the R&R and the record in this case, the Court adopts the Magistrate Judge's R&R and incorporates it herein.

Wherefore, based on the foregoing, the Plaintiff's Motion for Leave to Proceed in forma pauperis (Dkt. # 2) is DENIED and the Complaint is summarily DISMISSED without prejudice for failure to pay the filing fee at the time the Complaint was filed.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

October 19, 2011
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.